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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,230	03/29/2001	Satoru Tange	SHC0121	7158

7590

11/15/2004

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EXAMINER

MORRIS, TERELL H

ART UNIT PAPER NUMBER

1771

DATE MAILED: 11/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

MKE

**Advisory Action**

Application No.

09/821,230

Applicant(s)

TANGE ET AL.

Examiner

Terrel H. Morris

Art Unit

1771

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 03 November 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attached explanation.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: \_\_\_\_\_.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

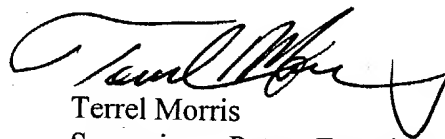
**Continuation of Box 5:**

Applicant puts forth that the Examiner, in making the determination outlined in the Advisory Action of September 23, 2004, erred in not taking into account the limitation of:

“said inelastically stretchable continuous fibers of said inelastically stretchable fibrous layer being oriented substantially in said one direction so that a tensile strength  $S_1$  of said composite sheet in said first direction and a tensile strength  $S_2$  of said composite sheet in said second direction define a ratio  $S_1/S_2$  of 3.0 or higher.”

Contrary to the assertion, the examiner has weighed the effect of this limitation against the patentability of the invention. In effect, the limitation is insufficient to show patentability since it is not defined how the limitation affects the structure or chemistry of the final product claimed and instead merely seems to set forth a performance property inherent to providing the claimed material features. There is no evidence of record to indicate said limitation should be given any other weight or to show that prior art that otherwise meets the material limitations of the claim fail to also meet the performance characteristic recited. It is suggested that a greater degree of precision is needed in order to accurately define the structure Applicant intends as the inventive structure such that various unintentionally encompassed structures, such as that applied, are excluded from the scope.

Applicant's remaining issues have been addressed elsewhere in the record.

  
Terrel Morris  
Supervisory Patent Examiner  
Group Art Unit 1771